



UNITED STATES PATENT AND TRADEMARK OFFICE

ML

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,765	12/13/2000	Philip R. McKee	0504AN-44861	6654

7590 01/27/2004
BRACEWELL & PATTERSON, L. L. P.
INTELLECTUAL PROPERTY LAW
P. O. BOX 969
AUSTIN,, TX 78767-0969

EXAMINER

SUAREZ, FELIX E

ART UNIT PAPER NUMBER

2857

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/735,765

Applicant(s)

MCKEE, PHILIP R.

Examiner

Felix E Suarez

Art Unit

2857

mw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-13,17-20,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 3,10,14-16,21,22,25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 2, 4-8, 10, 11, 13, 18, 20 and 23 are rejected under 35 U.S.C. 102(e) as being unpatentable over Hartsell, Jr. (U.S. Patent No. 6,169,938).

With respect to claims 1, 13 and 20, Hartsell, Jr. (hereafter Hartsell) teaches a monitoring system (or method) for supporting management of an establishment (or restaurant), said monitoring system comprising:

a plurality of detectors placed at each of a plurality of locations for detecting customer service related information and for transmitting said detected

customer service related information (see col. 7, lines 42-53 and col. 13, lines 24-32);

a central computer unit having a receiver for receiving said detected customer service related information transmitted by said plurality of detectors (see col. 7, line 66 to col. 8 line 21); and

a display monitor, coupled to said central computer unit, for displaying said detected customer service related information received by said transceiver to a manager of said establishment (see col. 12, lines 12-45 and col. 12, lines 1-28) on a real-time basis (see col. 9, lines 60-64).

With respect to claim 2, Hartsell further teaches that one of said plurality of detectors is a patron presence detector (see col. 7, lines 42-53 and col. 13, lines 24-32).

With respect to claim 4, Hartsell further teaches that one of said plurality of detectors is a staff presence detector for receiving signals from transmitters carried by staff members (see col. 8 line 55 to col. 9 line 7).

With respect to claim 5, Hartsell further teaches said transmitters carried by staff members also receive signals from tables needing service via local area paging (see col. 29 line 60 to col. 10 line 7 and col. 11, lines 7-17).

With respect to claim 6, Hartsell further teaches said plurality of detectors is battery operated (see col. 11, lines 7-17).

With respect to claim 7, Hartsell further teaches said monitoring system further includes a customer survey pad for relating to said central computer unit qualitative or quantitative customer service input from patrons sitting at a table, via one of said detectors located at said table (see col. 10, lines 31-49).

With respect to claim 8, Hartsell further teaches said establishment is a restaurant (see col. 7, lines 14-25).

With respect to claim 10, Hartsell further teaches said detected customer service related information is displayed on said display monitor for said manager to review at a remote location (see col. 8, lines 3-21).

With respect to claims 11, 18 and 23, Hartsell further teaches said detected restaurant customer service information is transmitted over-the-air (see col. 13, lines 24-31).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9, 12, 17, 19 and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartsell, Jr. (U.S. Patent No. 6,169,938) in view of Heagle et al. (U.S. Patent No 5,939,974).

With respect to claim 9 Hartsell teaches all the features of the claimed invention, except that Hartsell does not teach said plurality of locations are tables.

But Heagle teaches, in a System for Monitoring Food Service Requirements, that the location or motion detectors are strategically located to advise employees when they enter a room or space that needs a prompt response and coded entry to satisfy the system design or a potentially unsanitary area. These devices would be positioned to monitor dish rooms, scrap tables, scullery or dirty dish--pot sink areas, janitorial supply closets, the mop sink, trash compactors, utility rooms, break rooms, exit doors and similar locations (see Heagle, col. 10, lines 43-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hartsell to include location sensors as taught by Heagle, because the located sensors of Heagle would be positioned to monitor tables.

With respect to claims 12, 19 and 24, Hartsell teaches all the features of the claimed invention, except that Hartsell does not teach said detected restaurant customer service information is transmitted via a wire connection.

But Heagle teaches, in a System for Monitoring Food Service Requirements, that the an interface box with integral power transformer, wiring terminations and badge programming station enables the network to operate in a coordinated manner. It simplifies the needed installation effort. The programming station allows the monitored system parameters and selected default standards and times to be altered whenever necessary (see Heagle, col. 11, lines 53-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hartsell to include wiring terminations in the network as taught by Heagle, because the wiring terminations in the network of Heagle allows information transmission via a wire connection, as desired.

With respect to claim 17 Hartsell teaches all the features of the claimed invention, except that Hartsell does not teach said method includes a step of

transmitting patron survey information gathered from a patron survey pad to said central computer.

But Heagle teaches, in a System for Monitoring Food Service Requirements, that it is not necessary for an establishment to implement the entire program, each work station and subsystem operates as a stand alone entity; it is possible to add any element not initially adopted at a later date. The various components described by this novel interactive network, operator actions, hardware, computer generated reports and alert prompts, preventative maintenance calendars, recommended remedial actions and controls enable their use to effectively support other key attributes such as energy consumption, improved equipment performance and crew productivity (see Heagle, col. 14, lines 27-55).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hartsell to include computer generated reports as taught by Heagle, because the computer generated reports of Heagle allows to include customer survey information, as desired.

3. Claims 3, 10, 14-16, 21, 22, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Breed et al. [U.S. Patent No 5,829,782] describes a system for recognize the presence of a human on a particular seat of a motor vehicle..

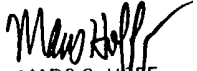
Tracy et al. [U.S. Patent No 6,369,719] describes a telecommunication unit transmitter/receiver.

Joao [U.S. Patent No 6,542,076] describes a transmitter system for transmitting an electrical, an electronic, an electromagnetic or other suitable signal, transmittable over a communication system and/or medium.

Fernandez et al. [U.S. Patent Application Publication No. 2001/0022615] describes a system for monitoring remote and/or local moveable objects.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix Suarez, whose telephone number is (703) 308-4926. The examiner can normally be reached on weekdays from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on (703) 308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.


MARC S. HOFF
SUPERVISOR, PATENT EXAMINER
TECHNICAL CENTER 2800